

**CALIFORNIA COASTAL COMMISSION**

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REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Th 9g

Application No.: 6-99-75

Applicant: International Jet Sports Boating Association (IJSBA)

Description: Installation of temporary structures for 1999 IJSBA Jet Ski World Finals to be held on October 10 - 17, with set-up and take-down extending from Oct. 1 - 20, including placement of buoys and a starting tower in the water, a controlled entry gate for paid on-site parking/admission charge, the erection of bleachers, a concert stage, portable toilets, inflatables, fencing, bicycle/skateboard ramps, vendor booths and parking areas.

Zoning	Mission Bay Park Master Plan
Plan Designation	Recreation
Ht abv fin grade	35 feet

Site: Mission Bay west of Fiesta Island and the western portion of Fiesta Island, Mission Bay Park, San Diego, San Diego County.

Substantive File Documents: Certified Mission Bay Park Master Plan; City of San Diego Mitigated Negative Declaration LDR No. 99-0398; U.S. Geological Survey New Release "Research Reveals Link Between Development and Contamination in Urban Watersheds", March 31, 1998; Environmental Protection Agency's Office of Wetlands, Oceans, and Watershed, URL: <http://www.epa.gov/owow/oceans/airdep/air3.html>.

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STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed jet ski races. Although personal watercraft have been documented to be associated with impacts to air and water quality, the proposed races would contribute a relatively small increase in the number of jet ski operating hours and their associated impacts in Mission Bay. Special Conditions placed on the project require pre- and post-race water quality monitoring, and eelgrass avoidance, monitoring and mitigation. As conditioned, the project will minimize impacts

to sensitive resources. Concerns raised by the public include the impact the project will have on water quality and sensitive biological resources.

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PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Eelgrass Survey. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the written approval of the Executive Director, an eelgrass survey which shall include the following components:

- a. Identification of the length, width, and density of the eel grass beds in front of and within 100 feet north and south of the proposed pit area as shown on Exhibit 2, and seaward to a depth of 10 feet MLLW
- b. Identification of potential mitigation site(s)
- c. Identification of the area where the starting tower and water entry points will be located and delineated to verify that that the starting tower and water entry points will be located in areas without eelgrass.

2. Eelgrass Mitigation and Monitoring Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written approval of the Executive Director, a mitigation and monitoring program, for all identified eelgrass impacts which shall include the following components:

- a. Within 30 days after completion of race activities, a post-race eelgrass report will be conducted by a qualified biologist and submitted to the Commission.
- b. The post-race report shall identify the amount of eelgrass impacted by the project based upon comparison of the pre- and post-construction surveys. The report shall also include a restoration schedule and an estimate of the square footage of area to be replanted.
- c. Eelgrass impacts shall be mitigated by replanting eelgrass at the project site at a ratio of 1.2 square feet of mitigation area for each square foot of area impacted.
- d. Prior to commencement of the mitigation/transplant, the applicant shall obtain final approval for the method of transplant from the California Department of Fish and Game (CDFG). The replanting of eelgrass shall be completed within three months of the completion of the post-construction survey.
- e. Monitoring surveys of the replanted area(s) shall be conducted at intervals of 6, 12, 24, 36, and 60 months post-planting, and submitted to the Commission.
- f. Monitoring shall include an analysis of any declines or expansion of the site based on physical conditions of the site and plants, as well as any other significant observations which are made. The reports must provide a prognosis for the future of the eelgrass bed.
- g. Areas that do not meet the following success criteria must be revegetated and again monitored for another 5 year period until the final goal is met:
  - A minimum of 70% areal coverage and 30% density after the first year
  - A minimum of 85% areal coverage and 70% density after the second year
  - A minimum of 100% areal coverage and 85% density for the third, fourth, and fifth years.

The permittee shall undertake the development in accordance with the approved mitigation and monitoring report. Any proposed changes to the approved plan shall be reported to the Executive Director. No change in the plan shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is required.

3. Water Quality Monitoring Program. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written approval of the Executive Director, a water quality monitoring program which shall include testing the water at the subject site within 30 days prior to the start of the event (i.e., by October 1), and within 30 days after the completion of the event (i.e., by November 30). Said program shall include an evaluation of the differences in water quality between the pre- and post-race event results.

4. Traffic Control. The road around Fiesta Island shall remain open to the general public and free public access to the southeast portion of the island for fishing, jetskiing, and for persons using the Youth Aquatic Center and group camp area must be maintained throughout the event.

5. Term of Permitted Activity. This permit authorizes the 1999 IJSBA World Finals only. All future events require a separate coastal development permit, unless exempt from permit requirements. The permittee shall contact the San Diego District Office to determine whether any future event is exempt from permit requirements. All temporary improvements shall be removed from the site by October 20, 1999, and the site fully restored to pre-event condition.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The proposed project is the International Jet Sports Boating Association (IJSBA) World Finals personal watercraft races. The race is proposed to be held off the western shore of Fiesta Island and the eastern shores of Government and Ski Islands in Mission Bay, in the City of San Diego. The event itself would take place from October 10-17, 1999, with set-up for the event beginning October 1, and clean-up lasting through October 20, 1999. The actual race area in the water would be closed to public use from October 7 to October 19. The proposed temporary event requires a coastal development permit because the 20-day (total) event does not qualify as an event of "limited duration" defined as "a period of time which does not exceed a two week period on a continual basis," in the Guidelines for Temporary Events adopted by the Commission 1/12/93.

The jet ski competition area would consist of a practice area, closed course racing around a roughly circular course marked with buoys, slalom racing around nine stationary buoys, slalom racing around nine stationary buoys and free-style competition. The event area would be marked off with perimeter buoys. A 30-foot tall starting tower supported by four, 1-foot by 1-foot pilings would be located in Mission Bay.

On-shore events would be located on the western side of Fiesta Island and would consist of a parking area, a 300-foot long pit area and bleachers along the shore, signage, a concert stage, bicycle/skateboard ramps, approximately 90 vendor booths, portable toilets, inflatables, fencing and a VIP/media area. Parking would be located on a 65-acre area, a portion of which has been used in the past for other event parking; the rest of the parking would be provided on a landscaped area where sewage sludge beds were previously located.

In May 1994, the Commission approved a similar jet ski event held by the IJSBA on Ski Beach on the east side of Vacation Isle, Mission Bay; however, this event was much more limited in scale, taking place only over two days in June, with an additional two

days of set-up time (#6-94-59). The permit was approved with special conditions requiring submittal of a final parking program and documentation of the level of attendance at the event and any parking problems. Prior to 1994, the event had been held at that same location for three years, however, 1994 was the first time a parking/admission charge was proposed, and was the first year the Commission asserted jurisdiction over the event. In April 1995, the Executive Director determined that since the 1995 event was essentially the same as the previously approved event (same location, duration, season, and operating conditions) it could be excluded from coastal development permit requirements.

Although the Commission has certified a land use plan (the Mission Bay Park Master Plan) for the Mission Bay segment of the City's LCP, there are no implementing ordinances in place as yet for this area. Thus, the entire park remains an area of deferred certification, and Chapter 3 of the Coastal Act is the standard of review.

2. Environmentally Sensitive Habitats/Marine Resources/Water Quality. The following Coastal Act policies, which address the protection of sensitive habitats, are most applicable to the subject development proposal and state, in part:

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored....

Section 30240

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Until the late 1940's, Mission Bay was a shallow, unnavigable marsh supporting saltwater, swamp, and mud flat habitats. Most of Mission Bay Park was created during the 1950's through a massive operation involving dredging and filling 25-million cubic yards of sand and silt to create the landforms in the Bay. The park is a regional destination for water recreation, picnicking, walking, and bicycling. It also hosts a number of commercial operations including a major aquatic park (Sea World), resort hotels, recreational vehicle camping, and not-for-profit leases such as youth camping and sailing facilities.

In addition, there are a variety of sensitive biological resources present in San Diego Bay. There are seven Least Tern nesting sites; those near Fiesta Island include existing and proposed nesting sites on FAA island and at the north end of Fiesta Island, and on Stony Point at the south tip of Fiesta Island. There are eelgrass meadows growing on the low intertidal to high subtidal slopes throughout the bay. Coastal salt marsh habitat includes the Northern Wildlife Preserve in the northeast section of Mission Bay.

In recent years, there have been growing concerns regarding the contribution personal watercraft make to air and water pollution. Most jet ski-type watercraft are conventional "two-stroke" design that burn fuel inefficiently and discharge up to 30 percent unburned fuel into the air and water environment. According to the California Environmental Protection Agency's Air Resources Board (ARB), a 100-horsepower personal watercraft operated for seven hours emits more smog-forming emissions than a new car driven more than 100,000 miles. San Francisco Bay, Lake Tahoe and other National Parks, and San Juan County (Washington State) are among areas where jet ski use has been banned or restricted, at least temporarily, because of environmental concerns.

In December 1998, the ARB adopted regulations requiring new engines and watercraft sold in 2001, and thereafter, to meet more stringent emission reduction standards. There are no requirements to modify or retrofit engines or watercraft sold prior to 2001. It is anticipated that the majority of the watercraft involved in the proposed event will not meet the most-recently adopted emission standards.

#### Water Quality/Air Quality

The Mission Bay Park Master Plan designates an area southeast of Fiesta Island in the South Pacific Passage for jet skis-only, but jet skis are not prohibited from using a number of other areas in the bay, including the area west of Fiesta Island where the proposed races would take place. The City of San Diego conducted an environmental initial study and adopted a Mitigated Negative Declaration (MND) for the project. The City attempted to first estimate the amount of fuel/oil discharge that is currently discharged into Mission Bay as a result of personal watercraft activity, and second, to determine how much discharge would occur as a result of the proposed event.

Based on an informal survey of boating activity conducted by City lifeguards during two days in August 1997, the City estimates that during the summer months, average weekday usage of jet skis is 98 jet skis, and average weekend-day use is 253. The City

assumed four operating hours per jet ski, thus, average weekday jet ski operating usage would be 392 (98 x 4) hours and weekend use would be 1,012 (253 x 4), for a total of 3,984 hours over a one-week period.

The City obtained information from the ARB indicating that a typical jet ski consumes five gallons of gasoline per hour and discharges 20% to 30% of the fuel/oil mixture unburned into the water. Thus, the City estimates that existing jet ski discharge into the bay is 5,976 gallons a week (3,984 hours x 5 gallons per hour x 30% = 5,976 gallons per week).

The City then estimated that the proposed project would result in 2,576 hours of jet ski operation over the eight-day event period. At 12 gallons per hour, the event would use 30,912 gallons of gasoline and, at a 30% unburned discharge rate, the City estimates that the event would discharge 9,275 gallons of unburned fuel into the bay over the eight-day event.

Although the City has indicated that the project applicant provided the estimate of 2,576 hours of jet ski operation, it is important to note that the applicant has stated that they do not agree with the City's calculations. In material submitted to staff, the applicant contends that the actual amount of hours during which jet skis would be in the water, including practice time, would be far less than 2,576 hours, and thus, much less than 30,912 gallons of gasoline would be consumed and 9,275 gallons discharged. The IJSBA conducted a study that documented the actual time that personal watercraft spend on the water during the 1998 IJSBA World Finals event in Lake Havasu City, Arizona. Based on this study, the IJSBA estimates that total fuel consumption associated with the proposed event would be 7,080.06 gallons, or 590 hours of jet ski activity. Thus, at a 30% discharge rate, approximately 2,124 gallons of unburned fuel would be discharged into the bay during the course event.

The applicant has conceded that there is no way to predict the exact amount of hours of use and fuel consumption that will occur during the event. In reviewing this type of development, the Commission must assess a "worst-case" situation, to ensure potential impacts to coastal resources are not underestimated. It may be that the City has overestimated the amount of discharge based on a higher-than-realistic estimate of the number of hours jet skis will be on the water. However, the City's figures apparently do not take into account practice hours which may occur outside of the eight-day event. On the other hand, calculating the impact of the event based on the number of hours the jet skis will be in the water could be an overestimation, since the discharge occurs only when the engines are actually in operation, which could be less than the time the vehicles are in the water. It is also possible that there will be a reduction in the number of hours of non-race-related jet ski operations in the area because the general public will not be able to use the site for jetskiing during the race event. Thus, approximately 2,576 hours of jet ski operation, while possibly overestimating the hours in some ways, and underestimating in others, probably approaches a worst-case scenario for purposes of analyzing the potential impact of the project.

In order to assess the significance of the proposed event and 9,275 gallons of discharge into the bay, the City looked at two recent studies of existing water pollution in Mission Bay. The MND cites a study conducted in September 1996 conducted by the State Water Resources Control Board as part of the State's Bay Protection and Toxic Cleanup Program. The report tested for PAHs (polycyclic aromatic hydrocarbons) in sediments in the San Diego Bay region.

A press release from the U.S. Geological Survey, March 31, 1998, describes PAH's as "an organic chemical class...universal products of combustion of natural fuels...also present in unburned coal or oil. Although ubiquitous in aquatic environments, they are typically not detectable in most water samples, but area bound up in sediment." According to the City's MND, the State Water Resources Control Board report found that in Mission Bay, the detectable ranges for both low molecular weight PAHs and high molecular weight PAHs were below the "Threshold Effects Level", the level at or below which no toxic biological effects are expected.

The second study cited by the MND is a study conducted as a condition of removing sewage sludge drying beds from Fiesta Island. In November 1998, the City of San Diego monitored water quality in four groundwater wells on Fiesta Island and three shore stations around the perimeter of Fiesta Island. Testing for contaminants that could be linked to gasoline and oil pollution included benzene, toluene, ethyl benzene, naphthalene, chloroform, bromodichloromethane, dibromochloromethane, bromoform and 1-1-1 trichloroethane. The City's study found that none of these compounds were detectable in the tests.

Thus, the MND concluded that, since currently in the summer months, approximately 3,984 hours of jet ski usage occurs every week in Mission Bay, apparently without resulting in detectable levels of pollutants, the additional 2,576 hours associated with the event would not likely produce detectable levels of pollutants, and thus would not represent an environmental impact.

As further evidence that the project would not significantly impact water quality in Mission Bay, the MND cites a smaller jet ski event held in Orange County in October 1997. For this event, water was impounded in a 1,000 by 3,000 sq.ft., 14.5 million-gallon artificial pond. The event consisted of a total of 360 hours of jet ski operation in the pond. After the event, the water was tested for contaminants that would indicate gasoline or oil pollution. None were detectable, and the water was discharged into the Orange County Water District's recharge basin. Although the Orange County event was far smaller than the proposed event, the artificial pond was approximately .003% the size of Mission Bay. Thus, the discharge into the artificial pond was likely far more concentrated than the discharge into Mission Bay would be. Therefore, the MND concluded that discharges from the proposed event would likely not be detectable either.

The MND also looked at the impact the project could have on air quality. According to the U.S. EPA Oceans and Coastal Protection Division, air pollution can have a significant impact on water quality, as air pollutants can be deposited on land and water, contributing



to declining water quality, contaminated fish, harmful algal blooms, and unsafe drinking water.

Based on the California Air Resources Board's estimate that seven hours of jet ski operation is equivalent to 100,000 passenger car miles, the City's MND determined that 2,576 hours of jet ski operation would equate to a total of 36,800,000 vehicle miles over eight days. The MND acknowledges that this number seems significant, but notes that during the month of October, it is estimated that 2,041,500,000 vehicle miles would be traveled in the San Diego Air Basin without the jet ski races. The 36,800,000 vehicle miles would represent 1.8% of the month's total. Over the course of a year, the percent increase of emission in the County due to the event would be 0.015%. The MND concludes this increase is not significant and thus, no mitigation is required.

Despite the conclusions of the MND, there is ample evidence that, overall, discharges from marine engines contribute significantly to air quality problems throughout the United States. The EPA estimates that of nonroad sources, gasoline marine engines are one of the largest contributors of hydrocarbon emissions, approximately 30% of the nonroad portion. Eliminating this total contribution would clearly significantly improve air and water quality. However, an unlimited number of personal watercraft are currently allowed to operate in Mission Bay. Mission Bay was created as a recreational park, and has been used for recreational activities since it was established. There are no plans at this time to restrict jet skis operation in the bay. Even using the larger estimate of 2,576 hours of jet ski operation, the proposed event would represent a small percentage of overall jet ski usage in Mission Bay.

Although because of the new EPA regulations, the impacts from jet skis should be reduced in the future, local, state, and federal regulating agencies may still determine that the deleterious impacts of personal watercraft warrant banning jet skis from certain areas, or banning certain types of engines. For example, the Commission staff is currently reviewing a negative determination for a proposal by the Gulf of the Farallons Marine Sanctuary to ban the use of jet skis within 1,000 yards of the shoreline in the Sanctuary, while allowing jet skis to access the open ocean area. There are a variety of factors which must be balanced under the Coastal Act, including both the impact jet skis have on the environment, and the public recreational aspects of the sport. Conflicting information on the extent of this particular event would have on air and water quality has been offered. However, in the judgement of the Commission, the particular project proposed here project would have a relatively limited contribution to air and water quality in Mission Bay, and in and of itself is consistent with the Chapter 3 policies of the Coastal Act regarding the protection of water quality. The applicants are proposing to perform water testing at the subject site prior to the proposed event, and after the event, to evaluate the impact the project may have had on water quality. Special Condition #3 requires that the applicant perform pre- and post-event water quality testing, which should be useful in evaluating similar events in the future. Therefore, the Commission finds that the proposed event can be found consistent with Sections 30230 and 30231 of the Coastal Act.

### Specific Biological Resources

Additional resource impacts potentially associated with the project including impacts to eelgrass. Eelgrass is a sensitive plant species that plays an important role in the marine ecology of bay and channel waters. Eelgrass habitats support important fisheries resources and are considered vegetated shallows, a habitat considered to be a “special aquatic site” under the Clean Water Act. Recent surveys in the vicinity of the project site indicate that eelgrass coverage in front of the pit area ranges from 50 to 75 percent. The U.S. Fish and Wildlife Service, National Marine Fisheries Service and the California Department of Fish and Game have adopted the “Southern California Eelgrass Mitigation Policy” in 1991 and revised in 1992. This policy requires that impacts to eelgrass be mitigated at a ratio of 1.2 to 1 (replacement to impact). In addition, the policy sets forth success criteria for evaluating the effectiveness of the transplant program.

The proposed event could impact eelgrass beds when watercraft enter the water, by the placement of the proposed starting tower, and through the operation of engines. The City of San Diego’s MND estimated that jet ski water pump exhaust can blow out eelgrass beds in depths of less than four feet. As a condition of the MND, within 30 days prior to the commencement of race activities, the applicant must conduct a pre-race eelgrass survey to document the location and percent coverage of eelgrass in front of and within 100 feet north and south of the proposed pit area, and seaward to a depth of 10 feet Mean Lower Low Water. Based on this survey, the starting tower and water access points must be located in an area that does not contain eelgrass. In addition, the applicant must measure the depth of water offshore of the pit area at 20-foot intervals every hour during the period when watercraft are entering and leaving the water (practice days and race days). The area must be delineated hourly to account for tidal changes. The 4-foot depth area must then be delineated with buoys and ropes to prevent watercraft from starting or operating their engines in depths of less than 4 feet.

Special Condition #1 also requires that the applicant perform a pre-race survey and locate the starting tower and water entry points in areas devoid of eelgrass. As conditioned, it is likely that eelgrass impacts will be avoided. However, the City is requiring that the applicants submit a post-race eelgrass survey within 30 days after completion of race activities that delineates and quantifies eelgrass impacts and makes specific recommendations regarding eelgrass restoration at a ratio of 1.2 to 1 (restoration to impact) if necessary to restore the area to its pre-race condition. Special Condition #2 also requires that the applicant submit a detailed mitigation and monitoring program consistent with the requirements of the Southern California Eelgrass Mitigation Policy, including success criteria. Therefore, the proposed project will not have a significant adverse impact on eelgrass.

The Least Tern is a migratory water bird that is listed by the state and federal government as an endangered species. Least Terns breed and nest annually between April and September. In order to ensure that noise associated with the event does not adversely affect the ability of the terns to reproduce, the event has been scheduled outside the April

through September Least Tern breeding and nesting season. Therefore, no significant impacts to the Least Terns are expected.

In past special events such as the thunderboat races, the Commission has been concerned about out-of-control watercraft leaving the race area and potentially entering sensitive habitat areas such as the Northern Wildlife Preserve. In the case of the proposed project, the applicant has indicated that all watercraft in the competition are required to have a properly working lanyard-type engine stop switch. The lanyard is a cable/cord that is attached to both the handlebar or top deck of each boat and the rider. The engine stops immediately when the cable is detached, such as if the rider falls off the boat. In addition, the watercraft engines must be set such that the engine stops should the rider fully release the throttle. Therefore, the event should not result in any watercraft unintentionally entering a sensitive habitat area.

The western shore and proposed parking area on Fiesta Island are comprised of beaches and beach and ruderal vegetation. No direct impacts to sensitive habitat are anticipated from the upland activities. To reduce impacts from oil and gas spilling from the watercraft on land, drip pans must be located under all watercraft to contain fuel and oil leaks while the watercraft are in the pit area. The City has indicated that the City's Fire Marshall requires, pursuant to the Uniform Fire Code, that the applicant maintain booms, oil-absorbing pads and similar equipment in a ready condition in the event of unanticipated spills. Thus, direct spills from watercraft are not expected to have a significant adverse impact on biological resources or water quality.

In summary, the operation of personal watercraft is associated with air and water pollution. However, the impacts from the proposed event are relatively small compared to the on-going jet ski operations that are not currently regulated by the Commission. The applicant will be performing water quality monitoring to assess the impact of the proposed event. Special Condition #5 notifies the applicant that future events may need a coastal development permit. As conditioned, the project will avoid or minimize impacts to sensitive biological resources. Therefore, the project can be found consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

3. Public Access and Recreation/Parking. The Coastal Act contains many policies addressing the issue of public access to and along the shoreline. The following are most applicable to the proposed development and state, in part:

#### Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

### Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby...

### Section 30212.5

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

### Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Additionally, pursuant to Section 30604(c), every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that such development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

The area to be occupied by the temporary improvements associated with the proposed races is currently unimproved sandy beach area normally available for general public use. Until recently, the southwestern and south central portion of the island was occupied by municipal sludge beds and not open to the general public. Most of Fiesta Island has few permanent public improvements, and those are largely limited to fire rings, trash cans and a few chemical toilets. However, the island is very popular for walking dogs, jogging, fishing and similar informal recreational activities. The area south of the entrance to Fiesta Island is particularly designated for personal watercraft activities and water-skiing; however, these activities take place throughout the Bay.

Proposed fencing and admission gates will prevent the general public from accessing the event area on land and in the water during the event, including during weekends, when public attendance at beaches is highest.

However, the Commission has permitted numerous special events in and around Mission Bay and Fiesta Island over the years, including thunderboat races (#6-92-178; #6-98-80), America's Cup races (#6-91-180; #6-93-154), the X-Games (#6-97-30; #6-98-80), a water ski show (#6-92-102), a sand sculpture event (#6-96-65), a volleyball tournament (#6-92-91), and the San Diego Pops concerts (#6-85-254; #6-86-167; #6-88-102; #6-90-

111; #6-97-15). The proposed event will take place outside of the prime summer season (Memorial Day to Labor Day), thus avoiding the time for greatest amount of conflict with the beach-going public. The road around the island will remain open and free public access to the southeast portion of the island for fishing, jetskiing, and for persons using the Youth Aquatic Center and group camp area will be maintained throughout the event. Special Condition #4 requires that the Fiesta Island road remain open to the general public throughout the event.

Unlike some special events which restrict parking lots normally available to the general beach-going public, all parking for the proposed event can be accommodated on the project site. The MND prepared by the City estimates that the event would attract approximately 38,750 fans over the eight days of activities, plus racers and event staff. The MND estimates that the event will generate from 1,863 trips daily, up to 3,726 trips on the day of the final events. The proposed parking area could accommodate approximately 7,000 vehicles, so more than adequate parking will be provided on the site. There are expected to be some traffic impacts associated with the event; however, these impacts will occur outside the peak summer season, and thus, eight days of traffic in the Fiesta Island area will not have a significant long-term adverse impact on public beach access.

It should be noted that the Commission has identified that charging a fee to the public to use public parklands which are otherwise free is potentially inconsistent with policies of the Act which require that public access be maximized. In the case of recent American Volleyball Professional tournaments, for example, the events were only authorized to charge for 25% of attendees for reserved seating, with the remainder of the public required to be admitted free. However, a fee was approved for thunderboat events in 1998 (#6-98-80) and 1992 (#6-92-178).

The Commission is concerned over the loss of unrestricted public access to the shoreline for up to 20 days. However, the Commission also recognizes that the event is short-term in nature, this land area is not improved at this time and is not extremely heavily used outside the summer season. The event will provide a recreational activity of the sort contemplated by the Commission when it required that the sludge beds be removed. Therefore, the Commission finds that, as conditioned, the proposed special event is consistent with the cited access and recreation policies of the Coastal Act.

4. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The proposed improvements are located on existing public parklands which are designated in the certified Mission Bay Park Master Plan as open beach (the upland areas) and open water/Thunderboat area. The Mission Bay Park Master Plan identifies the perimeter of Fiesta Island as a Primary Zone of Water Influence with priority given to

passive recreational uses or uses compatible with the water setting. The Master Plan addresses special events in general, and recognizes “support facilities” for such events, although it does not define this term or limit what such facilities can entail. Thus, the proposed improvements can be found consistent with the Master Plan designations. The applicant has received a Special Event Permit from the City contingent upon approval of a coastal development permit.

Although the Commission has certified a land use plan (the Mission Bay Park Master Plan) for the Mission Bay segment of the City’s LCP, there are no implementing ordinances in place as yet for this area. Thus, the entire park remains an area of deferred certification, and Chapter 3 of the Coastal Act remains the standard of review. Even after an implementation package is certified, much of the park will remain under direct Commission permit jurisdiction, since many areas of the park were built on filled tidelands. The proposed development raises a number of concerns under Chapter 3 policies; however, these have been resolved through special conditions and addressed in previous findings. Therefore, the Commission finds the proposed development will not prejudice the ability of the City of San Diego to complete an implementation program for Mission Bay Park or to continue implementation of its fully-certified Local Coastal Program for the remainder of the City’s coastal zone.

5. Consistency with the California Environmental Quality Act (CEQA).

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the public access policies of the Coastal Act. Mitigation measures, including conditions addressing eelgrass avoidance and mitigation, public access and water quality monitoring, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.